

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GLOBERUNNERS INCORPORATED,

Plaintiff,

-against-

ENVIRONMENTAL PACKAGING
TECHNOLOGIES HOLDINGS, INC.,

Defendant.

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ELECTRONICALLY FILED
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DATE FILED: 3/4/20

18-CV-4939 (JGK) (BCM)

ORDER

BARBARA MOSES, United States Magistrate Judge.

On December 3, 2018, the Court issued a Scheduling Order for Damages Inquest (Scheduling Order) (Dkt. No. 23), which directed plaintiff to serve defendant "by mail at its last known address with plaintiff's Proposed Findings of Fact and Conclusions of Law, together with supporting materials" (together, the Proposed Findings) "and a copy of" the Scheduling Order itself; and to file proof of such service along with its Proposed Findings.

On January 11, 2019, plaintiff filed an affidavit of service reflecting that it served the Court's Scheduling Order on defendant by certified U.S. Mail, as well as by email to defendant's Corporate Controller. (Dkt. No. 24.) On January 14, 2019, plaintiff filed its Proposed Findings. (Dkt. Nos. 25, 26, 28.) On the same day, plaintiff filed an affidavit of service reflecting that it served its Proposed Findings on defendant by email to defendant's Corporate Controller, as well as to defendant's CEO at two email addresses. (Dkt. No. 27.) However, plaintiff's affidavit of service does not reflect that plaintiff served those papers on defendant by mail. (*Id.*)

Service of plaintiff's Proposed Findings by mail was required by both this Court's Scheduling Order as well as Local Civil Rule 55.2(c), which requires that "all papers submitted to the Court pursuant to Local Civil Rule 55.2(a) or (b) . . . shall simultaneously be mailed to the party against whom a default judgment is sought" at that party's last known address.

No later than **March 6, 2020**, plaintiff shall file a declaration or affidavit setting forth (1) why plaintiff did not serve its Proposed Findings on defendant by mail; (2) any basis to conclude that the email addresses to which plaintiff sent its Proposed Findings were valid and effective at the time those emails were sent; and (3) any other evidence that defendant actually received plaintiff's Proposed Findings. Plaintiff shall serve its declaration or affidavit (a) by mail, to defendant's last known business address, and (b) by email, to defendant's last known effective email address(es).

Dated: New York, New York
March 4, 2020

SO ORDERED.



BARBARA MOSES
United States Magistrate Judge